

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

HUNG DANG, M.D.,

Plaintiff,

v.

KIMBERLY MOORE, M.D., *et al.*,

Defendants.

CASE NO. 3:21-cv-05544-RJB

ORDER DENYING PLAINTIFF'S  
MOTION TO STRIKE

This matter comes before the Court on Plaintiff Hung Dang's Motion to Strike (Dkt. 48). Plaintiff brings the pending motion to strike various defenses filed by Defendants Mark Johnson, William Bruegemann, Rick J. Glein, Roman S. Dixon, Jr., Debra L. Defreyn, Christina Pfluger, and Tim Slavin (collectively "State Defendants") in their joint answer to Plaintiffs' complaint.

In the pending motion, Plaintiff moves to strike sixteen of State Defendants' affirmative defenses pursuant to Federal Rule of Civil Procedure 12(f). Rule 12(f) permits the court to "strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." "The function of a 12(f) motion to strike is to avoid the expenditure of time

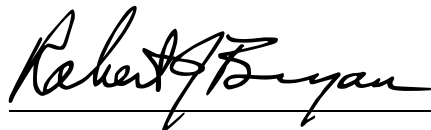
1 and money that must arise from litigating spurious issues by dispensing with those issues prior to  
 2 trial.” *Whittlestone, Inc. v. Handi-Craft Co.*, 618 F.3d 970, 973 (9th Cir. 2010) (quoting  
 3 *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th Cir. 1993)). “The key to determining the  
 4 sufficiency of pleading an affirmative defense is whether it gives plaintiff fair notice of the  
 5 defense.” *Wyshak v. City Nat. Bank*, 607 F.2d 824, 827 (9th Cir. 1979); *see Kohler v. Flava*  
 6 *Enter., Inc.*, 779 F.3d 1016, 1019 (9th Cir. 2015).

7 Plaintiff clearly disputes numerous defenses raised by State Defendants and emphasizes  
 8 that it is in the parties’ best interest “to avoid the expenditure of time and money . . . by  
 9 dispensing with those issues prior to trial.” Dkt. 54 at 8. State Defendants’ Answer, however,  
 10 gives Plaintiff clear notice of their intended defenses. *See* Dkt. 37. Plaintiff shows no viable  
 11 basis to now strike the defenses. Also, resolving the Parties’ dispute about defenses now would  
 12 not be in the interest of efficiency because it is still so early in the case. These issues may be  
 13 resolved in either a motion to dismiss or motion for summary judgment, should the parties bring  
 14 such motions, or at a date closer to trial, should it be necessary.

15 Therefore, Plaintiff’s Motion to Strike (Dkt. 48) **IS DENIED, without prejudice.**

16 The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
 17 to any party appearing pro se at said party’s last known address.

18 Dated this 21<sup>st</sup> day of December, 2021.

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21 ROBERT J. BRYAN  
 22 United States District Judge  
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